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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 23rd July, 2025

+ **W.P.(C) 8244/2025**

LAXMI CHAUHAN

.....Petitioner

Through: Mr. Anmol Agarwal & Mr. Puru,
Adv. (M: 9013215235)

versus

COMMISSIONER OF CUSTOMS AIRPORT AND GENERAL &
ANR.

.....Respondents

Through: Mr Akash Verma, Sr. Standing
Counsel, CBIC with Ms. Aanchal
Uppal, Adv. (M:9697980007)

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner-Laxmi Chauhan under Article 226 of the Constitution of India *inter alia* assailing the detention order dated 2nd May, 2023 (*hereinafter, the 'detention order'*), vide which, goods of the Petitioner being, one gold chain and two gold bangles, totally weighing around 200 grams were seized by the Customs department.

Background of the case:

3. A brief background of the present case is that the Petitioner was travelling from Dubai to India on 2nd May, 2023. The Petitioner was wearing the jewellery being, one gold chain and two gold bangles, totally weighing 200 grams. Thereafter, while crossing the green channel, the Petitioner was intercepted by the Custom officials and the said jewellery was detained vide *detention recipient No. DR/INDEL4/02-05-2023/001784* dated 2nd May,



2023. Further, on 1st August, 2023 the Petitioner signed a pre-filled waiver form, which according to the Respondents, waives of the right of the Petitioner to a Show Cause Notice.

4. The confiscation of the goods of the Petitioner, vide the detention order, was upheld by the Order-in-Original dated 25th September, 2023 and a penalty to the tune of Rs. 1,15,000/- was also imposed. The relevant portion of the Order-in-Original is extracted hereunder:

“i) I declare the passenger, Ms. Laxmi Chauhan is "an ineligible Passenger" for the purpose of the Notification No. 50/2017-Cus dated 30.06.2017 (as amended) read with Baggage Rules, 2016 (as amended).

ii) I order absolute confiscation of the above said "One gold chain and two gold bangles having purity 998 and weighing 200 Gms valued at Rs 11,42,657/-", recovered from the Pax Ms. Laxmi Chauhan and detained vide DR No. DR/INDEL4/02-05-2023/001784 dated 2nd May, 2023 under Section 111(d), 111(j) and 111(m) of the Customs Act, 1962;

iii) I also impose a penalty of Rs. Rs. 1,15,000/- (One Lakh Fifteen Thousand Only) on the Pax Ms. Laxmi Chauhan under Section 112 of the Customs Act, 1962.”

5. The Petitioner then, on 16th January, 2024, appealed against the said Order-in-Original. The Order-in-Appeal dated 16th January, 2024 (*hereinafter, the 'Order-in-Appeal*) *inter alia* allowed the Petitioner to re-export the gold jewellery upon payment of a redemption fine of Rs. 1,15,000/- along with a penalty of Rs. 1,15,000/-. The relevant portion of the Order-in-Appeal is extracted hereunder:



“5.6 I also note that there was no malafide intention in the non-declaration of jewellery which was brought for personal use. Accordingly, the case stands on a different footing and thus the impugned gold jewellery should be released on payment of redemption fine and penalty as there was no intention of financial gains by bringing jewellery without declaration.

5.7 Considering the facts of the case and in view of established violation of Section 77 of the Customs Act, 1962, I uphold the penalty under Sections 112(a) & 112(b) of the Customs Act, 1962

ORDER

6.0 In view of discussion above, I allow the appeal against O-in-O No. 854/001942/02.05.2023/WH/2023-24 dated 25.09.2023. The impugned Gold jewellery i.e. One Gold chain and two Gold bangles weighing 200 grams having purity 998 collectively valued at Rs. 11,42,657/-for re-export on payment of redemption fine of Rs.1,15,000/- and penalty of Rs. 1,15,000/-. The Appeal is disposed with such modifications as above and consequential relief, as per law.”

6. Subsequently, on 26th June, 2023 the Petitioner visited the office of the Respondents to pay the redemption fee as directed in the Order-in-Appeal. However, on the basis of a notice of revision application dated 26th June, 2024, the jewellery of the Petitioner was not returned to the Petitioner.

7. The said notice dated 26th June, 2024 issued by the Department of Revenue is extracted hereunder for ready reference:

“NOTICE ISSUED UNDER SECTION 129 DD OF THE CUSTOMS ACT, 1962



Subject: Revision Application filed by the Commissioner of Customs (Airport & General), New Delhi against Order-In-Appeal No. CC(A)/CUS/D-I/Air/1236/2023-24 dated 17.01.2024 passed by the Commissioner of Customs (Appeals), New Delhi in the case of Ms. Laxmi Chauhan, Uttarakhan-regarding...

A Revision Application filed under Section 129 DD of the Customs Act. 1962 in form No. C.A. - 8 for review of the subject Order-in-Appeal has been received from the Assistant Commissioner of Customs (Review Section), New Delhi. A copy of the said application is attached herewith and may be taken as part of the Notice.

2.Now, therefore, Ms. Laxmi Chauhan, Uttarakhand, is hereby called upon to show cause/Reply within 15days of receipt of this notice, as to why the said Order-in-Appeal should not be annulled or any other order, as deemed fit be passed by the Government on the ground so stipulated in the said revision application.

3.Ms. Laxmi Chauhan, Uttarakhand, should state in writing whether he would like to be heard in person before the case is decided he should note that if no reply is received within the time limit stipulated above or he docs not turn up for the personal hearing when fixed, the case may be decided on merits.”

Case of the Petitioner:

8. The case of the Petitioner is that the jewellery detained by the Customs department is her personal jewellery and is within the ambit of ‘personal effects’ as provided under the Baggage Rules. Further, no Show Cause Notice was issued to the Petitioner as also no personal hearing was granted. Thus, the jewellery detained by the Customs department ought to be released to her possession.

Analysis:

9. The Order-in-Original dated 25th September, 2023 directed for



absolute confiscation of the goods of the Petitioner and a penalty of Rs.1,15,000/- was also imposed. In appeal, the same has been permitted to be released upon payment of the redemption fine and penalty of Rs.1,15,000/-.

10. The Order-in-Appeal records that in the statement made by the Petitioner under Section 108 of the Customs Act, 1962, it is stated that the jewellery was gifted to her by her mother-in-law. The relevant portion is extracted herein below:

“2.3. The Appellant in her statement dated 02.05.2023 recorded under Section 108 of the Customs Act, 1962 stated that the said items did not belong to her and that these items were given to her by her mother in law; that the items were being carried by her from Dubai. On being asked she stated that she intentionally did not declare the recovered goods and was ready to pay the Customs Duty along with fine and penalty as applicable and that she did not need any Show Cause Notice or Personal Hearing in this matter.”

11. A perusal of the Order-in-Appeal would also show that the Appellate Authority itself came to the conclusion that there was no *malafide* intention of the Petitioner in non-declaration of jewellery which was for personal use. The Department of Revenue has now filed the revision against the said order.

12. In this matter, no Show Cause Notice has been issued to the Petitioner and no personal hearing was also granted before passing of the Order-in-Original.

13. The jewellery carried by the Petitioner squarely falls within the ambit of ‘personal effects’ as provided under the Baggage Rules. The jewellery was admittedly received as a gift from her mother-in-law and was being personally worn and carried by the Petitioner at the time of her arrival in India.



14. As per the established legal position, jewellery items of personal use come within the ambit of 'personal effects' under the Baggage Rules and would be exempt from detention by the Customs Department. This principle of law has been held in a catena of judgments, including a recent decision of this Court in, *Manan Karan Sharma v. Commissioner of Customs (2025:DHC:4183-DB)*.

15. Further, once the goods are detained, it is mandatory to issue a show cause notice and afford a personal hearing to the Petitioner. The time prescribed under Section 110 of Act, is a period of six months. However, subject to complying with the requirements therein, a further extension for a period of six months can be taken by the Customs Department for issuing the show cause notice. In this case, the one year period itself has elapsed, yet no show cause notice has been issued.

16. It is also established that a waiver of the Show Cause Notice cannot be done on the basis of a pre filled form and the same being used as a basis for not issuing a Show Cause Notice or not affording a personal hearing, is not permissible. This principle of law is laid down time and upheld time and again by this Court, including, in the judgment, *Amit Kumar v. Commissioner of Customs [(2025) SCC OnLine Del 647]*.

17. Under such circumstances, the detention itself would be doubtful. However, considering the fact that the Petitioner herself had filed the appeal and the Order-in-Appeal has been passed releasing the goods upon certain payment of some fine, it is deemed appropriate that the Order-in-Appeal be given effect to.

18. Accordingly, the Petitioner shall appear before the Customs Department on **11th August, 2025 at 11:30 AM**. Upon the payment of the



redemption fine and penalty, the goods shall be released to the Petitioner for re-export.

19. The Petitioner may collect the detained jewellery through an Authorised Representative, in which case, the detained goods shall be released after receiving a proper email from the Petitioner or some form of communication that the Petitioner has no objection to the same being released to the concerned Authorised Representative.

20. In the facts of this case, the warehousing charges are waived of.

21. The present petition is disposed of in the above terms along with pending application(s), if any.

**PRATHIBA M. SINGH
JUDGE**

**RAJNEESH KUMAR GUPTA
JUDGE**

JULY 23, 2025*/dk/rks*